

Hon. Ronald B. Leighton

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PENNY THOMAS,

Plaintiff,

v.

U.S. DEPT. OF ENERGY,
BONNEVILLE POWER ADMINISTRATION,

Defendant.

No. C09-5547-RBL

UNITED STATES' ANSWER

Defendant United States of America (hereinafter "Defendant"), by and through its attorneys, Jenny A. Durkan, United States Attorney for the Western District of Washington, and Robert P. Brouillard, Assistant United States Attorney for said District, hereby answers the Complaint (entitled "Notice of Claim"), and asserts affirmative defenses, as follows:

UNITED STATES' ANSWER

1. Defendant admits the allegations in the first sentence of the Complaint.
2. Defendant lacks sufficient information or knowledge to admit or deny the allegations in the second sentence of the Complaint and therefore denies said allegations.
3. Defendant lacks sufficient information or knowledge to admit or deny the allegations in the third sentence of the Complaint and therefore denies said allegations.
4. Defendant denies the allegations in the fourth sentence of the Complaint and avers that Defendant specifically declined to disturb any trees located in or on wetlands.

1 5. Defendant denies the allegations in the fifth sentence of the Complaint and avers that
2 Defendant specifically declined to disturb any trees located in or on wetlands.

3 6. Defendant lacks sufficient information or knowledge to admit or deny the allegations
4 in the sixth sentence of the Complaint and therefore denies said allegations.

5 7. Defendant lacks sufficient information or knowledge to admit or deny the allegations
6 in the seventh sentence of the Complaint and therefore denies said allegations.

7 8. Defendant lacks sufficient information or knowledge to admit or deny the allegations
8 in the eighth sentence of the Complaint and therefore denies said allegations.

9 9. Defendant lacks sufficient information or knowledge to admit or deny the allegations
10 in the ninth sentence of the Complaint and therefore denies said allegations.

11 10. Defendant lacks sufficient information or knowledge to admit or deny the allegations
12 in the tenth sentence of the Complaint and therefore denies said allegations.

13 11. Defendant lacks sufficient information or knowledge to admit or deny the allegations
14 in the eleventh sentence of the Complaint and therefore denies said allegations.

15 12. Defendant admits that Plaintiff submitted an administrative tort claim to the
16 Bonneville Power Administration on or about December 27, 2008, and denies the remaining
17 allegations of the twelfth sentence of the Complaint.

18 13. Defendant admits the allegations in the thirteenth sentence of the Complaint.

19 14. Defendant admits the allegations in the fourteenth sentence of the Complaint.

20 15. Defendant denies the allegations in the fifteenth sentence of the Complaint.

21 16. Defendant denies each and every other allegation not specifically admitted herein

22 UNITED STATES' AFFIRMATIVE DEFENSES

23 1. Plaintiff's recovery, if any there be, is limited to the damages recoverable under the
24 Federal Tort Claims Act.

25 2. The United States of America is the only proper defendant, if any there be, in this case.
26 28 U.S.C. § 2679(b)(1).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the United States Attorney Office for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers.

That on April 7, 2010, she electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the attorney(s) of record for the plaintiff(s):

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To the person(s) who are non CM/ECF participants, service will be made via U.S. postal service, addressed as follows:

Penny Thomas
2802 Olympic Hwy
Aberdeen, WA 98520

DATED this 7th day of April, 2010.

s/Tina Litkie
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